



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0462; FRL- 10005-28-Region 4]

Air Plan Approval; Georgia: Revisions to Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, via a letter dated July 31, 2018. Specifically, EPA is approving typographical changes to Georgia's SIP-approved regulations regarding its Cross-State Air Pollution Rule (CSAPR) state trading programs. This action is being approved pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This rule will be effective [Insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0462. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9034. Mr. Scofield can also be reached via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 15, 2019 (84 FR 55107), EPA proposed to approve into the Georgia SIP several changes to Georgia's air quality rule 391-3-1-.02, "Provisions. Amended." GA EPD submitted a SIP revision through a letter dated July 31, 2018,¹ to EPA for review and approval that revises Georgia's SIP-approved rules regarding its CSAPR² state trading programs at Rule

¹ EPA received the SIP revision on August 2, 2018. EPA received several other SIP revisions from Georgia through GA EPD's July 31, 2018, letter. These other revisions have been or will be addressed in separate EPA actions.

² CSAPR is a Federal rule that requires 27 Eastern states to limit their statewide emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) from electric generating units (EGUs) that significantly contribute to downwind nonattainment of the 1997 Annual fine particulate matter (PM_{2.5}) and 8-hour ozone national ambient air quality standards (NAAQS), 2006 24-hour PM_{2.5} NAAQS, and the 2008 8-hour ozone NAAQS. Through its CSAPR rulemakings, EPA determined that air pollution transported from EGUs in Georgia would unlawfully affect other states' ability to attain or maintain the 1997 8-hour ozone NAAQS, the 1997 Annual PM_{2.5} NAAQS, and the 2006 24-hour PM_{2.5} NAAQS, and included Georgia in the CSAPR ozone season NO_x trading program and the annual SO₂

391-3-1-.02(12) – “Cross State Air Pollution Rule NO_x Annual Trading Program,” Rule 391-3-1-.02(13) – “Cross State Air Pollution Rule SO₂ Annual Trading Program,” and Rule 391-3-1-.02(14) – “Cross State Air Pollution Rule NO_x Ozone Season Trading Program.” The details of the Georgia submission and the rationale for EPA’s action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before November 14, 2019. EPA did not receive any adverse comments on the proposed action. EPA is now taking final action to approve the above-referenced revisions.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391-3-1-.02(12) – “Cross State Air Pollution Rule NO_x Annual Trading Program,” Rule 391-3-1-.02(13) – “Cross State Air Pollution Rule SO₂ Annual Trading Program,” and Rule 391-3-1-.02(14) – “Cross State Air Pollution Rule NO_x Ozone Season Trading Program,” State effective July 23, 2018. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of

and NO_x trading programs. In 2017, EPA approved Georgia’s State trading programs for annual NO_x, annual SO₂, and ozone season NO_x emissions and incorporated Georgia Rules 391-3-1-.02(12), .02(13), and .02(14) into the SIP. *See* 82 FR 47930 (October 13, 2017) for more information on CSAPR and Georgia’s CSAPR state trading programs.

the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

EPA is approving the aforementioned changes to Georgia’s SIP at Rule 391-3-1-.02(12) – “Cross State Air Pollution Rule NO_x Annual Trading Program,” Rule 391-3-1-.02(13) – “Cross State Air Pollution Rule SO₂ Annual Trading Program,” and Rule 391-3-1-.02(14) – “Cross State Air Pollution Rule NO_x Ozone Season Trading Program.” These changes are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

³ *See* 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175

(65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 31, 2020.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L - Georgia

2. Section 52.570(c) is amended in the table under the heading “391-3-1-.02(2) Emission Standards” by revising the entries for “391-3-1-.02(12)”, “391-3-1-.02(13)”, and “391-3-1-.02(14)” to read as follows:

§52.570 Identification of plan.

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(c) * * *

EPA Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
391-3-1-.02(2)	Emission Standards			
**	**	*	*	*
391-3-1-.02(12)	Cross State Air Pollution Rule NO _x Annual Trading Program	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
391-3-1-.02(13)	Cross State Air Pollution Rule SO ₂ Annual Trading Program	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

391-3-1-.02(14)	Cross State Air Pollution Rule NOx Ozone Season Trading Program	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2020-02605 Filed: 2/14/2020 8:45 am; Publication Date: 2/18/2020]